

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

TIMOTHY WOODS, #09369002

*

Plaintiff,

*

v.

*

2:07-CV-852-WHA
(WO)

DAVID A. CONOLY, *et al.*,

*

Defendants.

*

RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff filed this 42 U.S.C. § 1983 action on September 21, 2007. At the time he filed this complaint, Plaintiff was incarcerated at the Montgomery City Jail located in Montgomery, Alabama. On September 26, 2007 the court entered an order which instructed Plaintiff, among other things, to inform the court of any change in his address. (*Doc. No. 4.*) On November 30, 2007 the envelope containing Plaintiff's copy of an order filed November 20, 2007 was returned to the court marked "Return to Sender" because Plaintiff is no longer at the address he provided to the court. Consequently, an order was entered on November 30, 2007 directing Plaintiff to provide the court with his present address on or before December 10, 2007. (*Doc. No. 15.*) Plaintiff was cautioned that his failure to comply with the court's November 30 order would result in a recommendation that this case be dismissed. (*Id.*) The envelope containing Plaintiff's copy of this order was returned to the court on December 5, 2007 marked as undeliverable.

It is clear that Plaintiff is no longer incarcerated at the Montgomery City Jail and that he has not provided this court with his current address. The undersigned, therefore, concludes that this case is due to be dismissed.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to comply with the orders of the court and to prosecute this action.

It is further

ORDERED that the parties are DIRECTED to file any objections to the said Recommendation on or before **December 26, 2007**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981)(*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on

September 30, 1981.

Done, this 13th day of December 2007.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE